April 6, 1999

ENGROSSED
SENATE BILL No. 32

DIGEST OF SB 32 (Updated March 30, 1999 2:18 pm - DI 94)

Citations Affected: IC 13-18; IC 36-2; IC 36-5; IC 36-9.

Synopsis: Drainage law duties of county surveyors. Allows registered surveyors to prepare plans for a sanitary sewer or public water main. Increases the fee for each deed the county recorder records. Requires that a survey to incorporate a town must be certified by a surveyor. Removes an engineer's authority to certify the survey. Requires a county surveyor who is not registered as a land surveyor or professional engineer to employ a person registered as a land surveyor or professional engineer to perform the drainage job functions of a county surveyor that require a registered land surveyor or professional engineer. (Current law requires a county surveyor who is not registered as a professional engineer to employ a professional engineer to perform the drainage job functions of a county surveyor that require a professional engineer.) Provides that if a county full-time employee is a registered land surveyor or professional engineer and the county

(Continued next page)

Effective: July 1, 1999.

Wheeler, Lewis, Wolf, Jackman
(HOUSE SPONSORS — LYTLE, DILLON, GRUBB, RICHARDSON)

January 6, 1999, read first time and referred to Committee on Natural Resources.
January 26, 1999, amended, reported favorably — Do Pass.
February 1, 1999, read second time, ordered engrossed. Engrossed.
February 2, 1999, read third time, passed. Yeas 38, nays 11.

HOUSE ACTION
March 3, 1999, read first time and referred to Committee on Local Government.
April 5, 1999, amended, reported — Do Pass.

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Digest Continued

surveyor is not registered as a land surveyor or professional engineer, the drainage board may designate the employee to perform the functions of the county surveyor that are allowed under the employee's land surveyor's or professional engineer's license. Allows a drain maintenance fund to collect the annual assessment when the fund balance exceeds the fund limit. Allows drain construction contracts that are not more than $75,000 (current law is $25,000) to be awarded without certain bidding and contract restrictions. Specifies the procedures for county surveyor to approve plans and hydraulic data for certain regulated drains. (Current law allows a county surveyor registered as a professional engineer to approve plans and hydraulic data for certain regulated drains.)

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April 6, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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ENGROSSED
SENATE BILL No. 32

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 13-18-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. The water pollution control board shall adopt rules providing that if:

(1) a person submits plans to a unit concerning the design or construction of a sanitary sewer or public water main;

(2) a professional engineer who is registered under IC 25-31 **or a land surveyor registered under IC 25-21.5** prepared the plans;

(3) the unit provided for review of the plans by a qualified engineer **or registered land surveyor** and subsequently approved the plans; and

(4) all other requirements specified in rules adopted by the water pollution control board are met;

the plans are not required to be submitted to any state agency for a permit, permission, or review, unless required by federal law.

SECTION 2. IC 36-2-7-10 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars ($6) for the first page and two dollars ($2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(2) Fifteen dollars ($15) for the first page and five dollars ($5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar ($1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar ($1) for each cross-reference of a recorded document.

(5) Three dollars ($3) per page for furnishing typewritten copies of records.

(6) One dollar ($1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process, and two dollars ($2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(7) Five dollars ($5) for acknowledging or certifying to a document plus fifty cents ($0.50) per page for proofreading any copy presented for certification.

(8) ~~One dollar ($1)~~ **Five dollars ($5)** for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-1-1-10 or IC 36-2-12-11(e).

(9) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(10) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a

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computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(11) A supplemental fee for recording a document in an amount authorized by an ordinance adopted by the county legislative body that:

(A) is paid at the time of recording; and

(B) does not exceed three dollars ($3) for recording a single document.

The fee under this subdivision is in addition to other fees provided by law for recording a document.

(c) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection (b)(5), (b)(6), (b)(9), (b)(10), and (b)(11) shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

(d) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(e) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(f) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) IC 10-5-4-3.

(E) IC 10-5-7-1(a).

(F) IC 12-14-13.

(G) IC 12-14-16.

(g) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

SECTION 3. IC 36-5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A petition for incorporation must be accompanied by the following items, to be supplied at the expense of the petitioners:

(1) A survey, certified by a **surveyor** registered ~~engineer,~~ **under IC 25-21.5,** showing the boundaries of and quantity of land contained in the territory sought to be incorporated.

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(2) An enumeration of the territory's residents and landowners and their mailing addresses, completed not more than thirty (30) days before the time of filing of the petition and verified by the persons supplying it.

(3) A statement of the assessed valuation of all real property within the territory, certified by the assessors of the townships in which the territory is located.

(4) A statement of the services to be provided to the residents of the proposed town and the approximate times at which they are to be established.

(5) A statement of the estimated cost of the services to be provided and the proposed tax rate for the town.

(6) The name to be given to the proposed town.

SECTION 4. IC 36-9-27-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 30. (a) Whenever the county surveyor is not registered under **IC 25-21.5 or** IC 25-31 and that statute prohibits an unregistered person from performing any function that the county surveyor is directed to do under this chapter, the surveyor shall employ and fix the compensation of a person who is so registered to work with the surveyor in performing those functions. However, if the county surveyor does not employ a registered person within one (1) year of the acceptance of a petition for construction or reconstruction of a drain, the board may make the appointment of a registered person that this section requires.

(b) The person employed by the surveyor, who shall be known as a qualified deputy, shall file with the county surveyor the original of all plans, specifications, and other documents made by the person in performing the work for which the person was employed. Those plans, specifications, and other documents become a part of the permanent file of the surveyor's office, which the surveyor shall maintain for the use of the board as provided in section 109 of this chapter.

(c) The rate of compensation paid to a qualified deputy shall be assessed against the drainage project for which the deputy was employed.

(d) This subsection applies whenever the county surveyor is not registered under **IC 25-21.5 or** IC 25-31, **and the county surveyor has not employed a registered person as provided in subsection (a).** If the county has a full-time employee who is registered **as a land surveyor** under **IC 25-21.5 or as a professional engineer under** IC 25-31, the board may, subject to the approval of the county executive **and the country surveyor,** designate that person to perform ~~any function~~ **the functions** of the county surveyor under this chapter

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that are allowed under the employee's license as a land surveyor or professional engineer. If a designation is made and approved under this subsection, the county surveyor may not employ a registered person under subsection (a) to perform that same function.

SECTION 5. IC 36-9-27-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 43. If in any year a maintenance fund established under section 44 of this chapter has an unencumbered balance equal to or greater than four (4) times the estimated annual cost of periodically maintaining the drain for which the fund was established, the annual assessment for the maintenance of that drain ~~shall~~ **may** be omitted for that year.

SECTION 6. IC 36-9-27-71 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 71. (a) When, in the construction or reconstruction of a regulated drain, the county surveyor determines that the proposed drain will cross a public highway or the right-of-way of a railroad company at a point where:

(1) there is no crossing; or

(2) the crossing will not adequately handle or will be endangered by the flow of water from the drain when completed;

the county surveyor shall include in the plans the grade and cross section requirements for a new crossing, or the requirements for altering, enlarging, repairing, or replacing the crossing. The surveyor shall mail a copy of the requirements addressed to the owner of the highway or right-of-way.

(b) When requested by the owner of the highway or right-of-way, the county surveyor shall meet with the owner at a time and place to be fixed by the surveyor. The surveyor shall hear objections to the requirements, and may then change the requirements as justice may require.

(c) When the board finds that in the construction, reconstruction, or maintenance of a regulated drain it is necessary to:

(1) alter, enlarge, repair, or replace a crossing; or

(2) construct a new crossing where none existed before;

the cost of the work on the crossing shall be paid by the owner of the public highway. This cost may not be considered by the county surveyor or by the board in determining the cost of the work on the drain or in assessing benefits and damages. However, if it is necessary for the owner of a public highway to construct a new crossing because of a cut-off for the purpose of shortening or straightening a regulated drain, the owner of the public highway shall pay one-half (1/2) of the cost of the new crossing, and the remainder shall be included in the cost of the work on the drain.

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(d) A railroad company with a right-of-way that is:

(1) crossed by the construction of a regulated drain; or

(2) affected by the altering or enlarging of a crossing;

shall pay one-half (1/2) of the cost of the work on the crossing and the remainder shall be included in the cost of the work on the drain.

(e) If the county surveyor is registered under IC 25-31, the county surveyor must review and approve or disapprove the plans and hydraulic data for an existing crossing that is to be altered, enlarged, repaired, or replaced, or the construction of a new crossing for a public highway or the right-of-way of a railroad company. The county surveyor shall disapprove the plans and hydraulic data if they do not show that the structure will meet structural and hydraulic requirements that will permit the drain to function properly. ~~However, if the county surveyor is not registered under IC 25-31, a registered person who is selected under section 30 of this chapter shall:~~

~~(1) review and approve or disapprove the plans and specifications described in this subsection;~~

~~(2) inform the county surveyor in writing of the approval or disapproval; and~~

~~(3) submit all plans, specifications, and hydraulic data along with the approval or disapproval.~~

~~Approval of the plans and hydraulic data by a person who is registered under IC 25-31 is required before the work may take place.~~

(f) If the county surveyor is registered under IC 25-21.5, the county surveyor must review and approve or disapprove the plans and hydraulic data for an existing crossing that is to be altered, enlarged, repaired, or replaced or the construction of a new crossing for a public highway or the right-of-way of a railroad company. The county surveyor shall disapprove the plans and hydraulic data if they do not show that the structure will meet hydraulic requirements that will permit the drain to function properly.

(g) Approval of the plans and hydraulic data by a person who is registered under IC 25-21.5 or IC 25-31 is required before the work can take place. However, if the county surveyor is not registered under IC 25-21.5 or IC 25-31, a registered person who is selected under section 30 of this chapter shall:

(1) review and approve or disapprove the plans and specifications described in this subsection;

(2) inform the county surveyor in writing of the approval or disapproval; and

(3) submit all plans, specifications, and hydraulic data along

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with the approval or disapproval.

SECTION 7. IC 36-9-27-79.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 79.1. Notwithstanding sections 77 and 78 of this chapter, the following provisions apply whenever the board estimates that the amount of the contracts to be let is not more than ~~twenty-five thousand dollars ($25,000):~~ **seventy-five thousand dollars ($75,000):**

(1) The board need not advertise in the manner provided by section 78 of this chapter. If the board does not advertise, it shall mail written invitations for bids to at least three (3) persons believed to be interested in bidding on the work. The invitations shall be mailed at least seven (7) days before the date the board will receive bids, and must state the nature of the contracts to be let and the date, time, and place bids will be received.

(2) The board may authorize the county surveyor to contract for the work in the name of the board.

(3) The contracts may be for a stated sum or may be for a variable sum based on per unit prices or on the hiring of labor and the purchase of material.

(4) The contracts shall be let in accordance with the statutes governing public purchase, including IC 5-22.

(5) The board may for good cause waive any requirement for the furnishing by the bidder of a bid bond or surety and the furnishing by a successful bidder of a performance bond.

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SENATE MOTION

Mr. President: I move that Senator Lewis be added as second author of Senate Bill 32.

WHEELER

SENATE MOTION

Mr. President: I move that Senators Wolf and Jackman be added as coauthors of Senate Bill 32.

WHEELER

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COMMITTEE REPORT

Mr. President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 32, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-18-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. The water pollution control board shall adopt rules providing that if:

(1) a person submits plans to a unit concerning the design or construction of a sanitary sewer or public water main;

(2) a professional engineer who is registered under IC 25-31 **or a land surveyor registered under IC 25-21.5** prepared the plans;

(3) the unit provided for review of the plans by a qualified engineer **or registered land surveyor** and subsequently approved the plans; and

(4) all other requirements specified in rules adopted by the water pollution control board are met;

the plans are not required to be submitted to any state agency for a permit, permission, or review, unless required by federal law.

SECTION 2. IC 36-2-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars ($6) for the first page and two dollars ($2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(2) Fifteen dollars ($15) for the first page and five dollars ($5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount

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provided in subdivision (4) and one dollar ($1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar ($1) for each cross-reference of a recorded document.

(5) Three dollars ($3) per page for furnishing typewritten copies of records.

(6) One dollar ($1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process, and two dollars ($2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(7) Five dollars ($5) for acknowledging or certifying to a document plus fifty cents ($0.50) per page for proofreading any copy presented for certification.

(8) ~~One dollar ($1)~~ **Five dollars ($5)** for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-1-1-10 or IC 36-2-12-11(e).

(9) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(10) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(11) A supplemental fee for recording a document in an amount authorized by an ordinance adopted by the county legislative body that:

(A) is paid at the time of recording; and

(B) does not exceed three dollars ($3) for recording a single document.

The fee under this subdivision is in addition to other fees provided by law for recording a document.

(c) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection (b)(5), (b)(6), (b)(9), (b)(10), and (b)(11) shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

(d) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(e) The county recorder shall post the fees set forth in subsection (b)

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in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(f) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) IC 10-5-4-3.

(E) IC 10-5-7-1(a).

(F) IC 12-14-13.

(G) IC 12-14-16.

(g) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

SECTION 3. IC 36-5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A petition for incorporation must be accompanied by the following items, to be supplied at the expense of the petitioners:

(1) A survey, certified by a **surveyor** registered ~~engineer,~~ **under IC 25-21.5,** showing the boundaries of and quantity of land contained in the territory sought to be incorporated.

(2) An enumeration of the territory's residents and landowners and their mailing addresses, completed not more than thirty (30) days before the time of filing of the petition and verified by the persons supplying it.

(3) A statement of the assessed valuation of all real property within the territory, certified by the assessors of the townships in which the territory is located.

(4) A statement of the services to be provided to the residents of the proposed town and the approximate times at which they are to be established.

(5) A statement of the estimated cost of the services to be provided and the proposed tax rate for the town.

(6) The name to be given to the proposed town.".

Page 2, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 5. IC 36-9-27-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 43. If in any year a maintenance fund established under section 44 of this chapter has an unencumbered balance equal to or greater than four (4) times the estimated annual cost of periodically maintaining the drain for which the fund was established, the annual assessment for the maintenance of

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that drain ~~shall~~ **may** be omitted for that year.".

Page 3, line 11, delete " IC 25-21.5 or".

Page 3, line 17, reset in roman "structural and".

Page 3, line 19, strike "However, if the county surveyor is not registered under".

Page 3, line 19, delete "IC 25-21.5 or".

Page 3, strike lines 20 through 28.

Page 3, line 29, strike "under".

Page 3, line 29, delete "IC 25-21.5 or".

Page 3, line 29, strike "IC 25-31 is required before the work may take".

Page 3, strike line 30.

Page 3, after line 30, begin a new paragraph and insert:

"**(f) If the county surveyor is registered under IC 25-21.5, the county surveyor must review and approve or disapprove the plans and hydraulic data for an existing crossing that is to be altered, enlarged, repaired, or replaced or the construction of a new crossing for a public highway or the right-of-way of a railroad company. The county surveyor shall disapprove the plans and hydraulic data if they do not show that the structure will meet hydraulic requirements that will permit the drain to function properly.**

(g) Approval of the plans and hydraulic data by a person who is registered under IC 25-21.5 or IC 25-31 is required before the work can take place. However, if the county surveyor is not registered under IC 25-21.5 or IC 25-31, a registered person who is selected under section 30 of this chapter shall:

(1) review and approve or disapprove the plans and specifications described in this subsection;

(2) inform the county surveyor in writing of the approval or disapproval; and

(3) submit all plans, specifications, and hydraulic data along with the approval or disapproval.

SECTION 8. IC 36-9-27-79.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 79.1. Notwithstanding sections 77 and 78 of this chapter, the following provisions apply whenever the board estimates that the amount of the contracts to be let is not more than ~~twenty-five thousand dollars ($25,000):~~ **seventy-five thousand dollars ($75,000):**

(1) The board need not advertise in the manner provided by section 78 of this chapter. If the board does not advertise, it shall mail written invitations for bids to at least three (3) persons

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believed to be interested in bidding on the work. The invitations shall be mailed at least seven (7) days before the date the board will receive bids, and must state the nature of the contracts to be let and the date, time, and place bids will be received.

(2) The board may authorize the county surveyor to contract for the work in the name of the board.

(3) The contracts may be for a stated sum or may be for a variable sum based on per unit prices or on the hiring of labor and the purchase of material.

(4) The contracts shall be let in accordance with the statutes governing public purchase, including IC 5-22.

(5) The board may for good cause waive any requirement for the furnishing by the bidder of a bid bond or surety and the furnishing by a successful bidder of a performance bond.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 32 as introduced.)

SERVER, Chairperson

Committee Vote: Yeas 7, Nays 1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 32, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 2 with "[EFFECTIVE JANUARY 1, 2000]".

Page 4, line 36, after "25-31" delete "." and insert ", **and the county surveyor has not employed a registered person as provided in subsection (a).**".

Page 4, line 39, delete "," and insert "**and the county surveyor,**".

and when so amended that said bill do pass.

(Reference is to SB 32 as printed January 27, 1999.)

STEVENSON, Chair

Committee Vote: yeas 12, nays 1.

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